

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
23.16.209, 23.16.401, 23.16.406,	)	
23.16.410, 23.16.1101, 23.16.1224,	)	
23.16.1225, 23.16.1231, and 23.16.3103	)	
concerning display of antique illegal	)	
gambling devices, dealer license	)	
application process, temporary dealer	)	
licenses, possession of dealer license,	)	
card game tournament rules, card dealer	)	
restrictions, house player restrictions,	)	
rake restrictions, and casino night	)	
requirements	)	

TO: All Concerned Persons

1. On May 10, 2007, the Department of Justice published MAR Notice No. 23-16-186 regarding the public hearing on the proposed amendment of the above-stated rules at page 567, 2007 Montana Administrative Register, Issue Number 9.

2. The Department of Justice has amended ARM 23.16.209, 23.16.401, 23.16.406, 23.16.410, 23.16.1101, 23.16.1224, 23.16.1225, 23.16.1231, and 23.16.3103 exactly as proposed.

3. A public hearing was held on May 31, 2007. The following comments were received and appear with the Department of Justice's responses.

Comment 1: Written testimony was received from Rich Miller, executive director, Gaming Industry Association of Montana, Inc. (GIA), relating to the proposed amendment to the rules for issuance of temporary card dealer licenses under ARM 23.16.406. Mr. Miller states that the proposed amendments to rule appear to be too restrictive for operators who want to hire unlicensed card dealers on short notice. Mr. Miller states that a trial period should be permitted to allow operators to hire unlicensed dealers in order to determine if the dealer has the necessary skills prior to going through the licensure process. Mr. Miller also commented that some people may live too far from a GCD field office or Driver Services office, and that the application process could be too time consuming for some potential license applicants.

Response 1: The proposed rule amendments were drafted to conform the rules to the legislative mandate of HB 190. The new legislation requires these rules to allow temporary licenses for card dealers only upon submission of the application, payment of the license fees, and proof of an offer of employment. The new law is designed to ensure temporary licenses are issued to applicants who are suitable, who have paid the license fees, and who actually need a license issued on a

temporary, expedited basis. There is no change to the law which requires card dealers to be licensed. Furthermore, the division anticipates that changes to drivers services business practices will allow card dealer license applications to be processed in approximately 20 to 30 days, or less. These proposed procedures are not significantly more burdensome than under current law. Applicants had previously been required to appear at a drivers services station to have photos taken and to submit fingerprints; the applicant was then required to mail the completed application and required fees to the division prior to using the temporary license attached to the application. Experience reveals the majority of card dealer license applications come from Montana's larger urban areas where GCD field offices are located. Additionally, the division plans to utilize Local Workforce Service Centers located in certain areas of the state to assist in handling temporary card dealer license applications, which should limit travel distances for some applicants.

Comment 2: Written comment from Rich Miller was received relating to the proposed amendment to the rules detailing card dealer restrictions under ARM 23.16.1224. Mr. Miller contends that the proposed amendment fails to clarify the rule, and that the entire rule should be rewritten.

Response 2: The division has recently encountered many operators who pay their card dealers a percentage of the rake. These operators and card dealers were unaware that this practice results in a prohibited undisclosed ownership interest in the license. The division believes the proposed amendment will serve to clarify this point.

Comment 3: Written comment from Rich Miller was received relating to the proposed amendment to the rule addressing the rake in a card game under ARM 23.16.1231. Mr. Miller states that the proposed amendment is redundant since the restriction is addressed under ARM 23.16.1224. He further comments that ARM 23.16.1231 deals with the mechanics of the game as it relates to the rake, and that the current rule should not be cluttered with what he views is an employment issue.

Response 3: While this amendment may be redundant to the rake restriction expressed in the proposed amendment to ARM 23.16.1224, the division believes it should be included in the rule addressing rakes. Investigators for the division have recently discovered numerous situations where card dealers are paid a percentage of the rake, and neither the dealer nor the operator understood this to be a prohibited undisclosed ownership interest in the license.

Comment 4: Oral testimony was received at the hearing from Ronda Wiggers, representing the Montana Coin Machine Operators Association. Ms. Wiggers stated that she supported the proposed amendments to ARM 23.16.209 relating to the display of antique gambling devices, but she stated that the legislation which prompted the amendments conflicts with the federal Johnson Act. Ms. Wiggers suggested the division develop an informational flyer advising the public that possession and transportation of gambling devices may be prohibited by federal law.

Response 4: The division will consider producing an informational flyer to send to Montana antiques dealers regarding the Johnson Act, and the availability of a license to sell antique gambling devices in Montana.

By: /s/ Mike McGrath  
MIKE McGRATH  
Attorney General, Department of Justice

/s/ Jon Ellingson  
JON ELLINGSON  
Rule Reviewer

Certified to the Secretary of State June 11, 2007.